

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JENNIFER CASON,

**Plaintiff,**

V.

FORTIVE CORPORATION; and  
ACCRUENT, INC.,

### Defendants.

C23-0217 TSZ

## MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Plaintiff Jennifer Cason's motion to remand, docket no. 12, is GRANTED. A case may not be removed on the basis of diversity jurisdiction if a properly joined and served defendant is a citizen of the State in which the action was brought. See 28 U.S.C. § 1441(b)(2). Defendant Fortive Corporation ("Fortive") is domiciled within the State of Washington, where its principal place of business is located, and it was served and appeared through counsel before the matter was removed. See Notice of Removal at ¶¶ 3–4 & 9(c) (docket no. 1). For purposes of § 1441(b)(2), Fortive's citizenship may be disregarded if it has been fraudulently joined, but Fortive faces a "heavy burden" in attempting to rebut the presumption against fraudulent joinder. See *GranCare, LLC v. Thrower ex rel. Mills*, 889 F.3d 543, 548 (9th Cir. 2018). Fraudulent joinder may be shown in two ways: (i) actual fraud in the pleading of jurisdictional facts, or (ii) the plaintiff's inability to establish, in state court, a cause of action against the forum-based defendant. Id. Fortive attempts to rely on the latter approach, which requires it to establish the absence of any "possibility" that a state court would find that the complaint states a cause of action" against it. Id. at 549 (emphasis in original). The Complaint and its exhibits, docket no. 2-1, together with plaintiff's declaration, docket no. 21-1, establish the "possibility" that the Complaint states a cause of action against Fortive. Fortive has not met its burden of establishing that it was fraudulently joined, and removal of this action was improper.

(2) Effective fourteen (14) days after the date of this Minute Order, this case shall be REMANDED to the Snohomish County Superior Court. Plaintiff is AWARDED \$5,000 in attorney's fees and costs pursuant to 28 U.S.C. § 1447(c). Accruent's motion to transfer this matter to the Middle District of Tennessee, docket no. 8, is STRICKEN as moot. The Court lacks jurisdiction and therefore makes no ruling concerning Fortive's Rule 12(b)(6) motion to dismiss for failure to state a claim, docket no. 8.

(3) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Dated this 30th day of March, 2023.

Ravi Subramanian

## Clerk

s/Laurie Cuaresma

## Deputy Clerk